

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1012
92ND GENERAL ASSEMBLY

Reported from the Committee on Tax Policy April 22, 2004, with recommendation that the House Committee Substitute for Senate Bill No. 1012 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

3680L.02C

AN ACT

To repeal sections 139.031, 140.340, and 140.730, RSMo, and to enact in lieu thereof three new sections relating to the collection of taxes, with an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 139.031, 140.340, and 140.730, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 139.031, 140.340, and 140.730, to read as follows:

139.031. 1. Any taxpayer may protest all or any part of any **current** taxes assessed against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any **current** taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. Upon receiving payment of **current** taxes under protest pursuant to subsection 1 of this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are in dispute. Except as provided in subsection 3 of this section, every taxpayer protesting the payment of **current** taxes shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains his office. If any taxpayer so protesting his taxes shall fail to commence an action in the circuit court for the recovery of the taxes protested within the time prescribed in this subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

taxes impounded, and any interest earned thereon, as provided above in this subsection.

3. No action against the collector shall be commenced by any taxpayer who has, for the **current** tax year in issue, filed with the state tax commission a timely and proper appeal of the protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by subsection 1 of this section. The taxes so protested shall be impounded in a separate fund and the commission may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release and disburse all or any part of such taxes in its decision and order issued pursuant to chapter 138, RSMo.

4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after determination of the issues, the court shall make such orders as may be just and equitable to refund to the taxpayer all or any part of the **current** taxes paid under protest, together with any interest earned thereon, or to authorize the collector to release and disburse all or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing authorities. Either party to the proceedings may appeal the determination of the circuit court.

5. All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax liability in the following taxable year and subsequent consecutive taxable years until the taxpayer has received credit in full for any real or personal property tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector. Such application shall be filed within three years after the tax is mistakenly or erroneously paid. The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds under this subsection by issuing warrants upon the fund to which the mistaken or erroneous payment has been credited, or otherwise.

6. No taxpayer shall receive any interest on any money paid in by the taxpayer erroneously.

7. All protested taxes shall be invested by the collector in the same manner as assets specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested taxes shall also receive the interest earned on the investment thereof. If the collector is ordered to release and disburse all or part of the taxes paid under protest to the proper official, such taxes shall be disbursed along with the proportional amount of interest earned on the investment of the taxes due the particular taxing authority.

8. On or before March first next following the delinquent date of taxes paid under protest, the county collector shall notify any taxing authority of the taxes paid under protest which would be received by such taxing authority if the funds were not the subject of a protest. Any taxing authority may apply to the circuit court of the county or city not within a county in which a collector has impounded protested taxes under this section and, upon a satisfactory showing that such taxing authority would receive such impounded tax funds if they were not the subject of a protest and that

such taxing authority has the financial ability and legal capacity to repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursement of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection instead of being held and invested by the collector under subsection 7 of this section, such taxing authority shall pay the taxpayer entitled to the refund of such protested taxes the same amount of interest, as determined by the circuit court having jurisdiction in the matter, such protested taxes would have earned if they had been held and invested by the collector.

9. No appeal filed shall stay any order of refund, but the decision filed by any court of last review modifying the circuit court's or state tax commission's determination pertaining to the amount of refund shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part.

140.340. 1. The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the one year next ensuing, in the following manner: By paying to the county collector, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate of purchase and all the cost of the sale together with interest at the rate specified in such certificate, not to exceed ten percent annually, **except on a sum paid by a purchaser in excess of the delinquent taxes due plus costs of the sale, no interest shall be owing on the excess amount**, with all subsequent taxes which have been paid thereon by the purchaser, his heirs or assigns, with interest at the rate of eight percent per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption.

2. Upon deposit with the county collector of the amount necessary to redeem as herein provided, it shall be the duty of the county collector to mail to the purchaser, his heirs or assigns, at the last post-office address if known, and if not known, then to the address of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for redemption.

3. Such notice, given as herein provided, shall stop payment to the purchaser, his heirs or assigns, of any further interest or penalty.

4. In case the party purchasing said land, his heirs or assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the one year next following the date of sale, no interest shall be charged or collected from the redemptioner after that time.

140.730. 1. Tangible personal property taxes assessed on and after January 1, 1946 and all personal taxes delinquent at that date, shall constitute a debt, as of the date on which such taxes were levied for which a personal judgment may be recovered against the party assessed with such taxes

before any court of this state having jurisdiction.

2. All actions commenced pursuant to this law shall be prosecuted in the name of the state of Missouri, at the relation and to the use of the collector and against the person or persons named in the tax bill, and in one petition and in one count thereof may be included the said taxes for all such years as may be delinquent and unpaid, and said taxes shall be set forth in a tax bill or bills of said personal back taxes duly authenticated by the certificate of the collector and filed with the petition; and said tax bill or tax bills so certified shall be prima facie evidence that the amount claimed in said suit is just and correct, and all notices and process in suits pursuant to this chapter shall be sued and served in the same manner as in civil actions, and the general laws of this state as to practice and proceedings and appeals and writs of error in civil cases shall apply, as far as applicable, to the above actions; provided, however, that in no case shall the state, county, city or collector be liable for any costs nor shall any be taxed against them or any of them.

3. For the purpose of this chapter, personal tax bills shall become delinquent on the first day of January following the [day when said bills are placed in the hands of the collector] **year the taxes are due**, and suits thereon may be instituted on and after the first day of February following, and within three years from said day. **If the collector, after using due diligence, is unable to collect any personal property taxes charged in the delinquent tax list within three years following the year the taxes are due, the collector may remove such personal property taxes from the delinquent or back taxes books in the same manner as real estate is removed under section 137.260, RSMo. Such abated amounts shall be reported on the annual settlement made by a collector of revenue.**

4. Said personal tax shall be presented and allowed against the estates of deceased or insolvent debtors, in the same manner and with like effect, as other indebtedness of said debtors. The remedy hereby provided for the collection of personal tax bills is cumulative, and shall not in any manner impair other methods existing or hereafter provided for the collection of the same.

Section B. Because immediate action is necessary to avoid the payment of interest by taxpayers on certain delinquent taxes, the repeal and reenactment of section 140.340 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 140.340 of section A of this act shall be in full force and effect upon its passage and approval.